



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 12, 1998

Mr. Michael J. Bostic
Assistant City Attorney
Criminal Law and Police Division
Office of the City Attorney
City Hall
Dallas, Texas 75201

OR98-0689

Dear Mr. Bostic:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113514.

The City of Dallas (the "city") received a request for all information concerning an alleged wrongful sale of a specified automobile. You claim that the requested information is excepted from disclosure by section 552.103 of the Government Code. You have submitted a representative sample of the requested documents for our review.¹

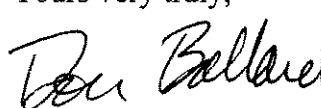
The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Although you indicate that the Police Department received the request for information on December 17, 1997, it appears from the face of the request that it was sent by facsimile to the city on December 11, 1997. *See* Gov't Code § 552.301. You did not seek a decision from this office until December 31, 1997. Consequently, you have not met your statutory burden. Gov't Code § 552.301. The requested information is therefore presumed public.² In the absence of a demonstration that the requested information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense); *but see* Gov't Code § 552.023 (person has a right of access to information that relates to that person and is protected from disclosure by laws intended to protect that person's privacy interests).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 113514

Enclosures: Submitted documents

cc: Mr. Edmund Gomez
Attorney and Counselor at Law
2031 S. Buckner Boulevard
Dallas, Texas 75217
(w/o enclosures)

²Generally, section 552.103 does not provide a compelling demonstration to overcome the presumption of openness. Open Records Decision No. 473 (1987).